

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GANDOMCAR PROPERTIES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 50333</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 17, 2009 and December 17, 2009, MaryKay Kelley and Karen E. Hart presiding. Petitioner was represented by John Gandomcar, President of the LLC. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**600 Main Street, Littleton, Colorado
(Douglas County Schedule No. R0365768)**

The subject property consists of a 14.823 acre agricultural parcel. There are three buildings: a 10,350 square foot stable, a 14,400 square foot arena, and an 8,064 square foot equipment building with 2 two-bedroom employee apartments totaling 1,992 square feet. The subject apartments are located with the confines of the equipment shed and share a common wall with the shed. The two apartments share a laundry area. Each apartment has exterior windows, an outside entrance, and an entrance from the interior of the barn. The buildings were constructed between 2001 and 2003 and are of average quality, pole construction. The horse stalls have movable walls. The property is classified mixed-use.

The subject property land is classified as agricultural dryland farm class 4125. A portion of the property is in a flood plain and is used as pasture for cattle and horses. The assigned land value of \$1,141.00 or \$77.00 per acre is not disputed.

At the September 17, 2009 hearing, Petitioner's witness, Mr. John Gandomcar, testified that he believes the buildings are overvalued. Mr. Gandomcar testified that the actual cost to replace the buildings is less than \$200,000.00. He believes the depreciated value would be less than \$150,000.00.

Petitioner presented a cost approach to value based on current replacement costs, building permit valuations, and actual building costs of the subject buildings; Mr. Gandomcar erected the buildings himself. Several of Petitioner's exhibits were beyond the base period end date of June 30, 2006. Petitioner's actual building costs and building permit information is dated.

Based on the cost approach, Petitioner is requesting a 2008 actual value of \$258,000.00 for the subject property buildings, less straight-line depreciation based on a 39-year life, plus a land value of \$1,141.00.

At the September 17, 2009 hearing, Respondent presented an indicated value of \$463,284.00 for the subject property based on the cost approach.

Respondent's witness, Mr. Larry Shouse, a Certified General Appraiser and deputy appeals appraiser with the Douglas County Assessor's office, testified that he used the cost approach to value the subject property. Mr. Shouse used Marshall and Swift linear progression depreciation versus Petitioner's straight-line method.

For the equipment building, Respondent used a replacement cost new of \$10.30 per square foot for a farm implement building-shop, class D pole-average. Adjustments were applied for current cost multiplier, local multiplier, story height multiplier, and perimeter multiplier for a final cost per square foot of \$11.50. Regarding the apartment, Mr. Shouse used Marshall and Swift Valuation Service to value the subject property's apartment via the cost approach, using fair quality finish tables at \$20.40 per square foot replacement cost new. Respondent applied 14% depreciation for an indicated value of \$114,701.00 for the equipment building.

For the stable, Respondent used a replacement cost new of \$18.55 per square foot for stables, class D pole-average. Adjustments were applied for current cost multiplier, local multiplier, story height multiplier, and perimeter multiplier for a final cost per square foot of \$20.38. Respondent applied 12% depreciation for an indicated value of \$185,621.00 for the stable.

For the arena, Respondent used a replacement cost new of \$12.08 per square foot for arenas, class D pole-average. Adjustments were applied for current cost multiplier, local multiplier, story height multiplier, and perimeter multiplier for a final cost per square foot of \$12.77. Respondent applied 12% depreciation for an indicated value of \$161,821.00 for the arena.

At the September 17, 2009 hearing, neither Petitioner nor Respondent presented comparable sales data or income data to value the subject property.

After the September 17, 2009 the Board set an additional hearing date to obtain additional data for the valuation of the residential apartment portion of the subject property as no information was presented regarding the market approach by either party.

Pursuant to Section 39-1-103(5)(a), C.R.S., “The actual value of residential real property shall be determined solely by consideration of the market approach to appraisal.”

At the December 17, 2009 hearing, Petitioner presented no market data for the subject property. Mr. Gandomcar testified that he was unable to locate any similar sold properties and that he believes the cost approach should be used to value the subject apartment. Mr. Gandomcar believes the use of the market approach to value the residential portion of the subject property equipment building would result in a double taxation of the common interior wall of the building. Mr. Gandomcar presented a cost to replace the apartment finish at \$23,904.00 minus depreciation.

At the December 17, 2009 hearing, Respondent’s witness, Mr. Shouse, presented a value of \$39,840.00 for the subject property apartment area based on the market approach.

Respondent presented three comparable sales ranging in sale dates of May 28, 2003 through July 15, 2004, in sales price from \$220,000.00 to \$460,000.00, and in size from 692 to 1,984 square feet. The comparable sale improvements were built between 1989 and 2001. All of the comparable buildings were stand-alone outbuildings with a finished living area and without a primary residence.

Mr. Shouse deducted the market land value, personal property value, and the associated outbuilding value from the sales price. The remaining value was attributed to the residential component of the buildings and ranged from \$17.00 to \$58.00 per square foot. Mr. Shouse chose a per square foot value of \$20.00 for the subject property or \$39,840.00.

Mr. Shouse concluded to a total value for the subject property of \$468,176.00, a value higher than presented in the previous hearing.

Regarding Petitioner’s concern that the valuation of the residential portion of the subject property via the market approach results in a double taxation, Mr. Shouse admitted that no adjustment was made for a shared wall in his market approach analysis. Mr. Shouse testified that this might account for the higher value conclusion than presented in the previous hearing.

Respondent assigned an actual value of \$572,264.00 to the subject property for tax year 2008 but is recommending a reduction in value to \$463,284.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2008.

The Board could give little weight to much of Petitioner’s cost data for the non-residential portion of the subject property as the data either occurred prior to the base period or after the appropriate level of value date of June 30, 2006. Additionally, building permit valuations are not an acceptable valuation methodology for determining the actual value of buildings for property tax purposes.

Respondent used Marshall and Swift, a state-approved cost estimating service to value the non-residential portion of the subject property. The Board was convinced that Respondent's valuation data for the non-residential portion of the subject property was correct.

Petitioner presented no market data for the residential portion of the subject property as required by Section 39-1-103(5)(a), C.R.S. Therefore, the only data that could be considered by the Board was that presented by Respondent.

Petitioner failed to meet its burden to prove that the subject property values as recommended by Respondent were incorrect.

The Board concluded that the 2008 actual value of the subject property should be reduced to \$463,284.00.

ORDER:

Respondent is ordered to reduce the 2008 actual value of the subject property to \$463,284.00.

The Douglas County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

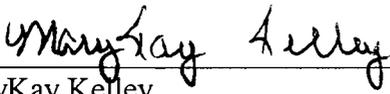
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

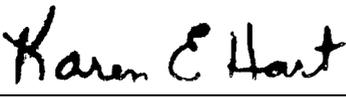
Section 39-8-108(2), C.R.S.

DATED and MAILED this 2nd day of March 2010.

BOARD OF ASSESSMENT APPEALS



MaryKay Kelley



Karen E. Hart

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery

